

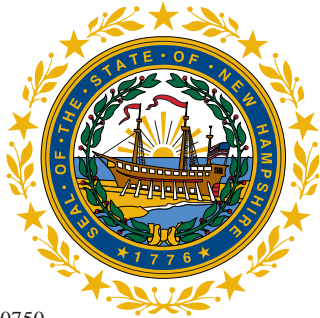
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The

BANKING DEPARTMENT NEWSLETTER SUMMER 2006

www.nh.gov/banking

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From the Commissioner's Desk

It certainly has been a busy summer! Between a visit from Azeri bank examiners, the start of licensing of money transmitters and all the various vacations, the season flew by!

Of course, the highlight of the summer was the reappointment of Bob Fleury for a full six year term. I was particularly pleased that Governor Lynch took the time to personally swear Bob in for another term.

It is hard to believe, but, as the political campaigns shift into high gear, we are already planning for the legislative session that starts in January. The Department has already submitted its budget request to the Governor. The main "change item" in the proposal is a package of new positions to help regulate trust companies. Partly due to Senate Bill 394, which amended both the trust company statute and the uniform trust law, I expect a 40% increase in the number of trust companies during the next six months. Obviously, we will need more examiners to properly regulate these new entities as well as the 21 current trust companies that we oversee.

I hope you enjoy the last golden days before winter appears on our doorstep only a few short weeks from now!

Azeri Examiners Visit New Hampshire Banking Department

The New Hampshire Banking Department recently played host to three examiners from Azerbaijan. The examiners spent one week learning about the Department and how we conduct bank examinations. Then, they spent two weeks on an actual examination of a state chartered bank.

Besides learning about our system of bank examinations, two of the examiners got to meet and chat with Governor Lynch at the State House. The examiners got to sample typical American food (including breakfast at the Commissioner's favorite restaurant).

From comments from the Azeri Examiners and Banking Department staff, the visitation was a great success. The Azeris commented on the difference between studying the examination process and seeing it in operation.



The visitation was coordinated by Bankworld, Incorporated under the sponsorship of the U.S. Agency for International Development (USAID). In the words of Ted Heisler, Vice President of the company, "Bankworld is managing for USAID a long-term program, providing assistance and training to the Bank Supervision Department at the National Bank of Azerbaijan to help with transition from the Soviet system to an effective, international-standards banking system."

Deputy Fleury Sworn In For Second Term



Deputy Banking Commissioner Robert A. Fleury was sworn in for a second term on August 15, 2006. The oath of office was administered by Governor John H. Lynch during a ceremony in the Governor's Council Chambers.

Commissioner Peter C. Hildreth said, "I am extremely pleased that Governor Lynch and the Governor's Council recognized the great job that Bob Fleury is doing as Deputy Commissioner. I look forward to working with Bob during the next six years and beyond."

Deputy Fleury was nominated by Governor Lynch upon the recommendation of Banking Commissioner Peter C. Hildreth. He was unanimously confirmed by the Governor's Council for a term to expire on August 1, 2012.

Annual Report

The Annual Report of the Bank Commissioner, Year Ending 2005, 161st Edition, is now available on the Department's website, <http://www.nh.gov/banking>.

Escrow Rate

RSA 384:16-c and RSA 384:16-e, require the bank commissioner to set the interest rate for a 6-month period on February 1 and August 1 of each year for the payment of interest on escrow accounts maintained by banks and mortgage companies. The escrow accounts are used for the payment of taxes or insurance premiums related to loans secured by NH real estate mortgages. The escrow rate is posted on the Department web site. The current rate escrow rate for the period August 1, 2006 through January 31, 2007 is 0.53% and will be updated the last week of January for the next 6-month period.

Personnel Changes

Four new employees have joined the Banking Department staff. Julie Griffiths joined the Department in the Information Technology area. Nancy Burke recently joined the Department staff in the position of Secretary. Nancy Daigle Renaud has rejoined the Banking Division as a Bank Examiner. She had previously served as a bank examiner with the Department for more than 12 years. In addition, James Shepard joined the Consumer Credit Division as Legal Coordinator.

Two Department employees are moving on; Banking Division Examiner Chris Blanchette and Consumer Credit Division Staff Attorney Andrea Shaw. Mr. Blanchette has accepted a position with the Federal Deposit Insurance Corporation. He will be working out of the Pembroke, New Hampshire field office conducting risk management and trust examinations primarily in New Hampshire and Maine. Chris was a Bank Examiner with the NHBD for nearly 11 years. Ms. Shaw has accepted a position as the Compliance Officer for Gorham Savings Bank, headquartered in Gorham, Maine.

BANKING DIVISION NEWS

Charles M. O'Connor – Chief Bank Examiner

2006 Annual Assessment

You should have received the 2006 annual assessment invoice. The amount is due within 60 days of receipt.

Disaster Recovery and Business Continuity Planning

By Parker T. Howell, Bank Examiner

How prepared is your institution for a disaster? Are you comfortable that your disaster recovery and business continuity plans (DR/BCP) properly address what you need to do during and after a disaster? Listed below are questions you should ask yourself to determine if your institution has done enough to prepare for a disaster or business interruption.

- Have you performed a thorough business impact analysis (BIA) to identify "critical" business processes and systems, and establish acceptable downtimes for each business process and subsequent systems that supports those processes? This is the basis for your plan. It will enable you to prioritize the recovery

efforts and plan for appropriate recovery arrangements. For instance, if the BIA determines that you need to process deposits within 3 hours of a disaster; then the system that supports that should be able to recover within that time frame as well.

- Do Senior Management and the Board embrace DR/BCP? Their support is critical to the success of the plan.
- Who is in charge of DR/BCP? This should not solely be the responsibility of the IT department. Does this person or group of persons have the proper authority to enact the plan and enforce compliance with plan requirements?
- Is DR/BCP part of your overall training program? The success of your plan depends upon employees knowing what to do.
- Do you test all areas of your DR/BCP? Or are you just testing your backup tapes? If you do not test your entire plan, it is unclear whether certain aspects of the plan will work.

- Is your DR/BCP centralized or decentralized? If it is decentralized, who coordinates all of the business units? Do they have the authority to enforce compliance with requirements?
- Does your DR/BCP address security? Enacting the plan may expose your institution to potential security vulnerabilities.
- How often is your DR/BCP updated? Is this done annually or as the business processes and systems change? Ideally, management should update the plan concurrent with changes to business processes and systems.

Because financial institutions play a major role in local, regional, and national economies, it is crucial for them to have solid and robust DR/BCP activities and programs. For more information on DR/BCP see the FFIEC's IT examination handbook "Business Continuity Planning" at www.ffiec.gov.

CONSUMER CREDIT DIVISION NEWS

Mary L. Jurta, Director of Consumer Credit

Enforcement Update through June 2006

By Andrea J. Shaw, Staff Attorney

Trends in enforcement actions offer insight into common industry misconceptions and/or issues. As such, the Department is sharing its observations regarding these trends so you may learn from others' mistakes, rather than following in their footsteps.

The first trend involves internet payday lending. The Department has issued numerous Cease and Desist Orders against unlicensed internet payday lenders during the first half of 2006. New Hampshire law requires payday lenders to have a "bricks and mortar" location within the state in addition to holding a New Hampshire small loan lender license to conduct business with New Hampshire residents. A company will not be granted a license without a physical presence in the state; as such, purely internet lending companies are operating outside of the regulatory framework.

The second trend involves industry's misconception regarding when Department examinations are required. The Department has issued many Orders to Show Cause for failure to facilitate an examination.

Some of these orders include a summary suspension. The most common reason offered for not facilitating an exam has been, "we only did a few loans in New Hampshire; therefore we didn't think you needed to do an exam." New Hampshire law does not take into account the number of loan transactions completed with New Hampshire residents to determine if you must be examined. New Hampshire law requires all licensees to be examined every 18 months regardless of loan volume.

If you are having problems responding to an examination notice you should contact the Department immediately. Failure to reach suitable arrangements to reschedule the examination before the exam is scheduled to begin may result in your license being suspended and ultimately revoked for non-compliance. With that being said, the Department will only make arrangements to reschedule examinations under extenuating circumstances.

If you should have any questions about Department enforcement actions, please feel free to contact us at 603-271-3561.

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